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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,283	03/16/2004	Gregory Piskun	P29-005	3044
7590 08/24/2005			EXAMINER	
R. Neil Sudol 714 Colorado Avenue Bridgeport, CT 06605-1601			KASZTEJNA, MATTHEW JOHN	
			ART UNIT	PAPER NUMBER
			3739	
DATE MAILED: 08/24/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/801,283

Applicant(s)

PISKUN, GREGORY

Examiner

Matthew J. Kasztejna

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-44 is/are pending in the application.
- 4a) Of the above claim(s) 1-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6/7/04.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Group I, claims 20-44, in the reply filed on August 4, 2005 is acknowledged. Claims 1-19 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Groups II and III, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on August 4, 2005.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,343,731 to Adams et al. in view of U.S. Patent No. 457,787 to Leisenring.

In regards to claims 20-29, 30 and 44, Adams et al. disclose a surgical instrument comprising: an instrument shaft 20a and 20b provided at a distal end with two jaws 10 and 12a at least one of the jaws 10 including a C- or U-shaped clamping member movable alternately away and towards the other of the jaws 12a for clamping and occluding hemorrhoidal tissues, but is silent with respect to an anoscope used in combination with the tissue occlusion device. However, Adams et al. teach of an

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operating instrument used for performing localized resections of lesions in tubular organs, particularly the colon, which is capable of being inserted through a working channel of an endoscope. Leisenring teaches of an anoscope including a hollow body defining a longitudinal channel, the hollow body being closed at a distal end and at least partially open at a proximal end, the hollow body having a sidewall provided with a window spaced from at least the distal end (see Fig. 1). Furthermore, Leisenring discloses hinged sections, wherein the slides can be partly withdrawn and out of the way of the operator, thus permitting ready access to the diseased parts and permitting treatment of the same with various operating instruments (see Col. 2, Lines 85-92). It would have been obvious to one skilled in the art at the time the invention was made to use the tissue occlusion device in combination with the anoscope in order to provide an operator clear access to lesions within the colon, as taught by Leisenring, and thus more effective removal of the lesions. The combination of both Adams et al. and Leisenring results in an apparatus which is inherently capable of performing the recited method claims.

In regards to claim 31, Adams et al. disclose a surgical instrument wherein the jaws are mounted to a pair of parallel rods each connected at one end to the shaft (see Fig. 1).

In regards to claim 32, Adams et al. disclose a surgical instrument wherein the jaws extend in planes oriented substantially perpendicularly to the rods (see Fig. 1).

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In regards to claim 33, Adams et al. disclose a surgical instrument wherein a given one of the jaws is slidably coupled to the rods, the other of the jaws being fixed with respect to the rods (see Col. 4, Lines 1-51).

In regards to claim 34, Adams et al. disclose a surgical instrument wherein the rods are coupled to opposite sides of each of the jaws (see Fig. 1).

In regards to claim 36, Adams et al. disclose a surgical instrument wherein the hemorrhoid occlusion device further includes a hemorrhoid occlusion component mounted to the jaws for acting on tissues gripped between the jaws, to couple the tissues to each other (see Col. 2, Lines 15-35).

In regards to claim 35, Adams et al. disclose a surgical instrument wherein the hemorrhoid occlusion component is a stapling mechanism (see Col. 2, Lines 15-35).

In regards to claim 37, Adams et al. disclose a surgical instrument wherein the occlusion component is a stapling mechanism including a staple cartridge removably mounted to one of the jaws (see Col. 3, Lines 63-67).

In regards to claim 38, Leisenring discloses an anoscope wherein the anoscope further includes a shutter member mounted to the hollow body to cover the window during a positioning of the anoscope in an anal canal, the shutter member being movable relative to the hollow body to uncover the window to permit hemorrhoidal tissues to protrude through the window into the channel (see Col. 2, Lines 85-90).

In regards to claim 39, Leisenring discloses an anoscope wherein the hollow body has a longitudinal axis, the sidewall being formed with a bulging portion located on one side of the axis and extending from the proximal end partially along a length of the

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sidewall towards the distal end, the window being located in the bulging portion (see Fig. 1).

In regards to claim 40, Adams et al. disclose a surgical instrument wherein the jaws are mounted to the shaft so as to remain parallel to one another during opening and closing strokes of the jaws (see Fig. 1).

In regards to claim 41, Adams et al. disclose a surgical instrument wherein the one of the jaws is located proximally of the other of the jaws (see Fig. 1).

In regards to claims 42-43, Adams et al. disclose a surgical instrument wherein the jaws are parts of a cartridge removably attachable to the shaft (see Col. 3, Lines 55-67).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 6,494,881 to Bales et al.

U.S. Patent No. 6,923,806 to Hooven et al.

U.S. Patent No. 6,428,473 to Leonard et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Kasztejna whose telephone number is (571) 272-6086. The examiner can normally be reached on Mon-Fri, 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (571) 272-4764. The fax phone


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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJK

8/18/05



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SUPERVISORY PATENT EXAMINER
GROUP 3700